

2010 WORK PLAN

OF THE

WESTERN STATES WATER COUNCIL

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“WATER NEEDS & STRATEGIES FOR A SUSTAINABLE FUTURE: NEXT STEPS”

In 2006, the Western Governors’ Association unanimously adopted, “Water Needs and Strategies for a Sustainable Future.” The report concluded that population growth in the West continues at an unprecedented rate with ramifications for cities, rural communities, and agricultural areas. At the same time, public support continues to grow for instream uses to support fish, wildlife, water quality, and recreation. Meanwhile, addressing the challenges associated with fully allocated basins and growing water demands, the possibility of more climate-caused disruptions require thoughtful, coordinated effort. The report included 28 recommendations in six different areas. When the Governors adopted the report, they also directed the Council to implement the recommendations therein.

The Western Governors’ Association (WGA) and the Western States Water Council have worked to implement the recommendations contained in the 2006 report. In doing so, the Council prepared “Water Needs and Strategies for a Sustainable Future: Next Steps,” which the Governors unanimously adopted in June 2008. The report’s Executive Summary includes 42 recommendations for further action. These recommendations and “next steps” complement and build upon those first identified in the 2006 report.

This work plan highlights progress to date and “next steps” in implementing the Governors’ recommendations in what will be an ongoing process.

Implementation of the WGA/WSWC report’s recommendations will be undertaken by the WSWC’s three “substantive” committees, under the WSWC Executive Committee’s oversight, with the support of staff.

**EXECUTIVE COMMITTEE
WORK PLAN
2010**

1. WGA/WSWC 2010 WATER REPORT AND WESTFAST

Work to Date: Pursuant to directions from the WGA, the Council has undertaken to assume overall responsibility for implementation of the recommendations of the WGA/WSWC report (June, 2008) entitled “Water Needs and Strategies for a Sustainable Future: *Next Steps*.” The Executive Committee has overseen establishment of priorities among these recommendations. A priority recommendation has been implemented; namely, the establishment of the western states federal agency support team (WestFAST) and the hiring of a liaison officer to staff the work of this team at the Council’s offices. The Council’s past reports, adopted by the WGA, have served to focus greater attention on western water issues.

2010: The Committee will continue to oversee the implementation of the recommendations of the WGA/WSWC reports, with the contemplation that the bulk of the work of the Council relative to the report will be undertaken by the three other “substantive” committees, with the support of staff. Further, the Committee will oversee the implementation of WestFAST’s 2010 workplan.

The Council will complete a supplement to the 2008 and 2006 reports, summarizing related implementation activities over a two-year period and recommendations for future action as appropriate.

Time Frame – June 2010 and ongoing implementation efforts

2. NEWSLETTER

Work to date: *Western States Water* provides members and others with accurate and timely information on various water resources topics at state, regional and national levels. It is provided as a free service to members, governors and their staff, member state water resource agencies, state water users associations, selected multi-state organizations, key Congressmen and their staffs, and top federal administration officials. Other public and private agencies and individuals may subscribe for a fee of \$100 per year.

2010: Along with the Council’s regular meetings, the newsletter requires our most significant commitment of staff resources. The response from members and others receiving the newsletter has been consistently positive. The Council will continue to provide this service. The staff will continue to send the weekly publication via email, except for those who request a hard copy. The Council will consider an updated format, based on staff recommendations.

Time frame: Ongoing

3. WATER MANAGEMENT SYMPOSIUM

Work to date: The Annual WSWC Water Management Symposium has traditionally been held under the auspices of the Executive Committee. However, the Committee has asked one of the other committees to take the lead.

In 2009, the Council and the leadership of its Legal Committee sponsored its biennial Indian Water Rights Settlement Symposium with the Native American Rights Fund (NARF) on the Lummi Reservation, near Bellingham, Washington. Over 200 participated. Also in 2009, the Council, WGA, Colorado Department of Natural Resources and Colorado Water Conservation Board cosponsored a symposium on Water and Land Use Planning for a Sustainable Future: Scaling and Integrating, which brought together over 150 participants from various levels of government and private interests to discuss ways to better consider water needs and uses in planning activities.

In 2008, the Council sponsored a symposium entitled, “The West’s Water Future: Water Information Needs and Strategies,” which also brought together scores of participants to discuss present and future data and information resources related to water resources management. This meeting took the place of the Council’s annual Water Information Management Systems (WIMS) workshop, under the Water Resources Committee.

In 2007, the Water Quality Committee took the lead in organizing a conference to address many of the recommendations in the WGA/WSWC Water Report. Findings and recommendations were summarized and provided the basis for further implementation of the recommendations in the report. Also the Council co-hosted another in a series of symposia on Indian water rights settlements.

In 2006, the WSWC, in association with the Western Governors’ Association, sponsored a symposium on the subject of “Water in the West: Evolving Technologies and Emerging Issues.” The California Department of Water Resources and several other federal agencies were also cosponsors.

During 2005, a series of three half-day workshops took the place of the annual symposium. These workshops were devoted to water conservation, water data collection programs and funding, and water development and management. These workshops reflected priority areas identified for the Council at the September 2004 annual symposium entitled, “Western Water Supply Challenges Workshop.” A major purpose behind the workshops was to increase federal participation at Council meetings, and therefore, the opportunities for collaboration. These workshops were well attended in terms of federal representation, as well as Council membership.

2010: The Council will hold another annual symposium in the fall of 2010 in collaboration with relevant federal agencies and other stakeholders to consider “...ways to meet our growing western water, wastewater, watershed protection and restoration, and public safety-related infrastructure funding needs.” The 2006 WGA/WSWC Water Report recommended such a series of symposia be organized biennially, and part of the Council’s 2008 DC Seminar was

dedicated to this subject. The purpose of the symposium would also be to “find ways to quantify, evaluate and prioritize funding needs,” and “highlight the benefits of integrated watershed, river basin, regional and interstate planning and management.” (2006 Water Report)

Time Frame – September/October 2010

4. DC SEMINAR

Work to date: In 2009, the Committee determined that it should direct efforts on behalf of the Council to brief the new Administration and Congress on issues of importance. In March 2009, Council members and officers gathered in Washington, D.C. and made several visits with acting and confirmed officials in the new Administration as well as staff in leadership positions in the new Congress.

2010: The Executive Committee will continue to direct efforts to brief the new Administration and Congress and oversee preparations for the DC seminar to be held in the Spring of 2010, with a particular focus on identifying issues to be communicated by the WSWC through anticipated visits on Capitol Hill. This meeting will be organized and held in conjunction with the Interstate Council on Water Policy (ICWP). The WestFAST Liaison Officer and appropriate WestFAST members will participate in agency visits.

Time frame: March 22-25, 2010 – L’Enfant Plaza Hotel

5. ANNUAL REPORT

Since its organization in 1965, the Council has prepared and published an annual report. The annual report includes a brief discussion of the Council’s formation and a detailed summary of its current membership and activities. It is a report of the Council’s meetings, and provides an explanation of resolutions and positions and other actions taken by the Council. Further, it includes a description of other important activities and events, such as workshops, seminars and symposia sponsored by the Council. It also describes the Council’s involvement in major current water policy issues. Lastly, it includes an audit of the Council’s finances, and current rules of organization.

Time frame: January – July

6. NATIONAL WATER POLICY, VISION AND PLANNING

The Council has been involved in national water policy and planning discussions since its inception in 1965.

In 2009, the U.S. Army Corps of Engineers completed a survey and report describing state water plans and national trends, and held a series of regional workshops in the West, East and Midwest

that culminated in a National Collaborative Water Resources Conference. The Corps also called for building a “toolbox” to assist states with their management challenges. WSWC members and staff participated in this effort, but there was no apparent consensus regarding a need for a national water policy or vision. Simultaneously, draft legislation was circulated separately entitled the Sustainable Watershed Planning Act, and WSWC members and staff were asked for their comments. In response to these efforts the Council considered and adopted a resolution setting for specific principles, and continued working with both the Administration and the Congress on related issues.

2010: The Council will review the final report on the Corps collaborative efforts, as well as the individual state reports and prepare an appropriate response. The Council will also identify common elements of state water plans, compare planning approaches, and provide suggestions for states to improve their planning processes, as well as recommend ways federal agencies can provide appropriate assistance, including needed “tools.”

**LEGAL COMMITTEE
WORK PLAN
2010**

1. IMPLEMENTATION OF THE WGA/WSWC REPORT, “WATER NEEDS AND STRATEGIES FOR A SUSTAINABLE FUTURE: NEXT STEPS”

Since 2006, the WGA and the Western States Water Council (WSWC) have worked to implement the recommendations contained in the Water Reports. In doing so, the Council prepared an additional report: “Water Laws & Policies for a Sustainable Future: A Western States’ Perspective.” Printed in June 2008, the Laws & Policies report consolidated work of the Legal Committee regarding the legal implications raised by or associated with the recommendations in the 2006 report. Due to the depth and length of the Laws & Policies report, it was not adopted by the Council or the Governors. Rather, it is intended to serve as a reference for state decision-makers and as a supplement to the 2008 Next Steps report.

Several of the recommendations in the 2008 report have legal ramifications, and the Legal Committee will be responsible for leading or assisting in the implementation process as follows:

A. Ag-to-Urban Transfers

In the executive summary of the Next Steps report, item No. 1 reads: “States (who have the legal responsibility associated with the resource), working with interested stakeholders, should identify innovative ways to allow water transfers from agricultural to urban uses while avoiding or mitigating damages to agricultural economies and environmental values.” Moreover, the report states “States need to find innovative ways to allow transfers without damaging agricultural economies and environmental values or infringing on private property rights” (No. 19, page 3). In July 2008, the Legal Committee invited representatives from the Family Farm Alliance (FFA) and the City of Aurora, Colorado, to discuss agricultural-to-urban water transfers (ag-to-urban transfers). A number of representatives from other groups subsequently expressed interest in this endeavor and an “Ag/Urban/Enviro Water Sharing Work Group” was formed with the help of facilitator MaryLou Smith of Aqua Engineering.¹

In 2009, the group secured funding in the form of a grant from the Walton Foundation to conduct an initiative that will address ag-to-urban transfers in the Colorado River Basin. According the group’s grant proposal, the initiative will: (1) “determine the magnitude of water transfers from agriculture in the [Basin];” (2) research past transfers in the Basin; (3) “find those who are currently experimenting (either on the ground or theoretically) with innovative agricultural/urban/environmental water sharing schemes;” (4) host a forum of “selected players” in the Basin to “uncover what we can learn and build on now

¹ Work Group members include: (1) Nathan Bracken of the WSWC; (2) Tom Iseman of the WGA; (3) Reagan Waskom of the Colorado Water Institute; (4) Todd Doherty of the Colorado Water Conservation Board; (5) Jennifer Pitt of the Environmental Defense Fund; (6) Pat O’Toole and Dan Keppen of the Family Farm Alliance; (7) Taylor Hawes of the Nature Conservancy; (8) Jonne Hower of WestFAST; and Mark Pifher of the Western Urban Water Coalition.

to promote innovative agricultural/urban/environmental sharing of water,” with a focus on identifying roadblocks and ways to overcome them; (5) “prepare a show and tell tool box of discovered innovative water sharing opportunities and obstacles to be reported in both written and documentary form;” (6) convey discoveries to the Western Governors, the Bureau of Reclamation, and key Colorado River Basin water interests “to inform and spur significant innovative action in this arena.” Although the Group members and their organizations are endorsing the initiative’s effort to gather information about water sharing in the Colorado River Basin, the Group has agreed that the participation of its members does not automatically imply that their respective organizations will endorse any work products or recommendations that the initiative may produce. Instead, Group members will have the opportunity to obtain their organizations’ approval for recommendations or work products that may result from the initiative.

The Committee will continue to participate in the Group and its initiative where appropriate, but will notify the Group that: (1) its participation does not imply the WSWC’s official endorsement of any work product or recommendations that may result from the initiative; and (2) the WSWC is primarily interested in intra-state transfers (not inter-state), as well as the financial and economic trends that are driving these transfers. Council staff will participate in the Group on behalf of the Committee.

Timeframe: December 1, 2009 – September 30, 2010

B. Water Conservation and Reuse

Item No. 14 of the Next Steps Report’s Executive Summary reads, “States should evaluate their current capacity and fill the need as appropriate for institutional mechanisms to further encourage conservation, reuse and supply augmentation strategies, as well as promote education and outreach activities to improve public acceptance of such strategies” (page V). Water conservation is an important component of all water management plans. Although elements of water conservation and reuse are discussed in the Laws & Policies report, the Legal Committee plans to further help states evaluate their capacity to conserve and reuse water resources in a more comprehensive fashion; with a particular emphasis on urban settings. As part of this process, the Committee will collaborate with the Water Quality Committee to prepare a report that highlights water reuse efforts in member states and describes the legal, administrative, and other issues that encourage or discourage water reuse in each state. The Water Quality Committee has created a subcommittee to assist Council staff in preparing the report, including the creation of a survey that will be sent to member states to gather necessary information for the report. The Legal Committee has designated a representative to work on this subcommittee and will continue to collaborate with the Water Quality Committee as needed. In addition, the WateReuse Association has offered its assistance with respect to the report and the subcommittee will consult with the WateReuse Association as appropriate.

In so doing, the Legal Committee will work with its existing Water Reuse Subcommittee and consider ways to better define and promote water reuse and conservation as a federal priority, including development of a “water conservation protocol.”

Timeframe: March – June 2010

Subcommittee: Sue Lowry, Chair (WY); Herb Guenther (AZ); Jeanine Jones (CA); Lester Snow (CA); Paul Graves (KS); Jim Davenport (NV); Estevan Lopez (NM); Kevin Ward (TX); Larry Anderson (UT); and Stephen Bernath (WA).

C. Exempt Wells

The Next Steps report reads, “The WSWC should conduct further review and assessment of the issues associated with exempt domestic and livestock wells, given the extent of serious regulatory and administrative challenges that can potentially affect the sustainability of water supplies, surface flows, and water quality.” (No. 6, page 5). While some of the issues associated with exempt domestic wells were addressed in the Laws & Policies report, the Committee has prepared a separate report that addresses the concerns associated with exempt wells on a state-by-state basis. The report evaluates: (1) the statutory and regulatory authority regarding exempt wells and domestic well drilling; (2) the ways in which exempt wells can complicate or compromise water resource allocation, administration and quality; (3) the relative costs and benefits associated with monitoring wells that are currently exempt; (4) specific challenges member states are facing with respect to exempt wells; and (5) potential approaches to mitigate the adverse impacts that exempt wells may have.

The Committee will publish the report in Issue 1 of Volume 40 of Environmental Law, which is published by the Lewis and Clark Law School. Environmental Law anticipates that the issue will be in print by March 2010.

Time frame: November 2009 – March 2010

2. AD HOC GROUP ON RESERVED INDIAN WATER RIGHTS

The Ad Hoc Group on Reserved Indian Water Rights is comprised of representatives from the WGA, Western Business Roundtable, the Native American Rights Fund (NARF), and the WSWC. Since its inception in the early 1980s, the Ad Hoc Group has actively promoted negotiated settlements. Although many notable settlements have been reached, funding remains a significant obstacle. In April of 2003 and March of 2005, Congressional workshops on settlements were held and focused on funding negotiated settlements. In fall of 2005, fall of 2007, and summer of 2009, the WSWC and NARF cosponsored symposia that focused on funding negotiated settlements. In recent years, the focus has shifted towards introducing legislation that would fund settlements in part through substantial surpluses accruing in the Reclamation Fund. On April 16, 2008, representatives from the WGA and NARF offered testimony to the House Natural Resources Subcommittee on Water and Power to support

alternative means of funding negotiated settlements—including the use of surplus monies in the Reclamation Fund - and providing authority and resources to administrative officials early in the negotiations process. In 2009, President Obama signed into law the Omnibus Public Lands Management Act, which includes a Reclamation Water Settlements Fund to finance authorized Bureau of Reclamation projects that are part of Congressionally-approved Indian water rights settlements. Another funding mechanism includes the President's Emergency Plan for AIDS Relief (PEPFAR), which contains an amendment that authorizes up to \$1B for water supply projects that are part of Congressionally-approved Indian water rights settlements. Although no money has been appropriated for PEPFAR, the amendment is a five-year authorization and money deposited into the fund can be spent over ten years.

2010: The Reserved Rights Subcommittee, working with WGA staff, will oversee Council efforts in the following areas: (1) activities to gather support for an appropriate remedy to settlement funding issues, including contacting the administration, appropriators, and Congress to support the appropriation of PEPFAR funds and issues associated with the Reclamation Fund; (2) working with the Ad Hoc Group to meet with the Administration to discuss the key issues associated with Indian water rights settlements; and (3) determining if there are any areas of mutual interest that may warrant collaboration with NARF. It is likely that this discussion will center on legislative proposals emanating from the 2009 symposium, and subsequent discussions with Congressional representatives and staff. The subcommittee will work closely with the WGA co-lead governors on this subject.

Further, the Committee, in conjunction with NARF, will begin preparing for another Indian Water Rights Symposium to be held in the fall of 2011. The Symposium is traditionally held every other year, the last being held in August 2009 in Ferndale, Washington.

Reserved Rights Subcommittee: Susan Cottingham, Chair (MT); Christopher Estes (AK); and Norman Johnson (UT)

Time frame: Ongoing

**WATER QUALITY COMMITTEE
WORK PLAN
2010**

1. IMPLEMENTATION OF THE WGA/WSWC REPORT, “WATER NEEDS AND STRATEGIES FOR A SUSTAINABLE FUTURE: NEXT STEPS”

As proposed in the 2008 Next Steps report, several of the recommendations have water quality implications, and the Water Quality Committee will be responsible for leading or assisting in the implementation process as follows:

A. Reuse Initiative

The Committee will work in conjunction with the Legal Committee to complete a report on water reuse that will highlight water reuse efforts in member states and will describe the legal, administrative, and other issues that encourage or discourage water reuse. The Committee has formed a subcommittee to assist WSWC staff in the creation of this report. As part of this effort, the subcommittee has created a survey that it will send to member states to gather the necessary information for the report. The Legal Committee has also designated a representative to work on the subcommittee and the WaterReuse Association has offered its assistance with respect to the report. The Committee will consult with the WaterReuse Association as appropriate.

Subcommittee: John Kennington (UT); Rick Huddleston (ID); Jim McCauley (WA); and Tracy Hoffman (NM)

Time frame: March – June 2010

B. Climate Change Impacts

Item No. 39 of the Executive Summary states, “States should examine their existing water laws and institutions to determine if they are adequate to provide sufficient flexibility to address potential climate change impacts, with a particular focus on water initiatives and programs associated with demand management, efforts to ‘stretch’ existing supplies, water banking, and water transfers.” (page VII). While many of the anticipated effects of climate change bear directly upon water supplies, climate change has the potential to reduce water quality in significant ways. Lower flows reduce a waterway’s capacity to dilute pollution and can lead to increases in water temperature, as well as the number and types of water-borne pathogens. The Committee will work to identify: (1) the possible impacts of climate change that pose the greatest threat to water quality in the West; and (2) existing work that assesses options for minimizing impacts. In carrying out these objectives, the Committee will consult with the Water Resources Committee to determine possible areas of collaboration in which the Committee can outline the impacts of Climate Change on water quality. It will also consult with the WGA, which has created a climate change adaptation work group, to ensure that the Committee’s efforts are not duplicative and complement the WGA’s initiative.

Time frame: Ongoing

2. ARID WATERS WATER QUALITY POLICIES AND POSITIONS

Work to date: The Committee has been involved in WGA task force efforts to tailor Clean Water Act (CWA) requirements for arid areas of the West. These efforts involve establishing appropriate water quality standards for waters with seasonal, ephemeral or wastewater-dominated flows. An additional area of emphasis is encouraging beneficial reuse of water or wastewater reclamation under the reauthorized CWA. Various efforts at enacting arid area provisions have been attempted in conjunction with CWA reauthorization efforts over the past several years.

In 2003, the Working Group developed a discussion paper on “Addressing Water Quality Standards Issues Regarding Effluent Dependent and Effluent Dominated Waters.” The discussion paper focuses on the regulatory treatment of effluent dependent and effluent dominated waters in arid or semi-arid environments. In particular, it was designed to be background information for policy development regarding requirements for applying the “aquatic life” use designation on certain western streams, where effluent is the major component of the flow.

After receiving comments on the discussion paper from member states, in October 2003, the Council wrote a letter to the Environmental Protection Agency (EPA) requesting the agency engage in further discussions with western states. States are seeking EPA clarification on: (1) the regulatory context of “existing uses” as related to effluent dependant and effluent dominated waters; (2) the “potential uses” of an effluent dependant or effluent dominated water; and (3) the application of the “net environmental benefits” concept in arid waters. A workshop was held in Las Vegas in March 2004. Participants included states, EPA, environmental group representatives, and representatives from the regulated community to discuss several case studies related to these issues. Following the workshop, EPA and the states began developing a ‘Questions and Answers’ document that could provide some direction and guidance to states regarding the nature and extent of state flexibility in adopting water quality standards for effluent dependent and effluent dominated waters.

The States and EPA met in January 2005 and again in September 2005 to further discuss the questions and possible corresponding answers. In 2006, an effort to develop and finalize the Q&A document, was managed by Meridian, and their report was issued in August 2006. In the spring of 2008, EPA officials met with the Committee to discuss the status of regulating effluent-dependent waters and re-emphasized the concept of “net environmental benefit.” Similarly, a WSWC delegation met with EPA officials in the spring of 2009, including then Acting Administrator for the Office of Water Mike Shapiro, to discuss arid water quality policies and positions. EPA is still working on the matter but has not issued a guidance document.

2010: The Committee will continue to monitor EPA’s actions with respect to available options for establishing water quality standards for both effluent dependent and effluent dominated waters, and will take necessary action where appropriate. The Committee will also follow up with EPA regarding its work with the State of Wyoming to determine whether the disposal of wastewater from oil and gas activities requires the application of water quality standards.

Time frame: Ongoing

Effluent Dependent - Effluent Dominated Waters (EDW) Subcommittee: Paul Frohardt (CO); Steve Pawlowski (AZ); Susan Braley (WA); Bill DiRienzo (WY); Tom Stiles (KS); Chris Levine (MT).

3. “GOOD SAMARITAN” PROVISION FOR ABANDONED MINE REMEDIATION

Work to date: Over the past several years, the Committee has been actively engaged in efforts to amend the CWA to allow states to clean-up abandoned mine sites without incurring full responsibility under the CWA for attaining water quality standards with respect to any post-remediation discharge. Several committee members have been involved in a task force organized by the WGA to craft legislative language to carve out an exemption for such “Good Samaritan” activities by state governments.

In 1999, Senator Max Baucus (D-MT) introduced a WGA-supported Good Samaritan bill, S. 1787, together with Senator Campbell (R-CO) and Senator Daschle (D-SD). On June 21, 2000, Governor Janklow testified on behalf of WGA in support of S. 1787 during a hearing in the Senate Environment and Public Works Subcommittee on Fisheries, Wildlife and Water.

During the 109th Congress (2005-2007), different versions of Good Samaritan legislation were introduced:

1. H.R. 1266 by Rep. Mark Udall (D-CO)
2. S. 1848 by Senator Ken Salazar (D-CO)
3. A bill sponsored by the Administration that was introduced as S. 2780 by Senator James Inhofe (R-OK), Chairman of the Senate Environment and Public Works Committee, and H.R. 5404, introduced by Rep. John Duncan (R-TN), Chairman of the House Transportation and Infrastructure Subcommittee on Water Resources and the Environment.

In March 2006, Paul Frohardt (Colorado) presented WGA/WSWC testimony to the House Transportation and Infrastructure Subcommittee on Water Resources during an oversight hearing on Good Samaritan issues. In July 2006, Joan Card (Arizona) delivered WGA-WSWC testimony to the House Resources Subcommittee on Energy and Mineral Resources. Additionally, the Western Governors sent a letter in June 2006 to Senator Inhofe expressing qualified support for the Administration’s bill (S. 2780).

In 2007, EPA introduced “Good Samaritan Administrative Tools” to address legal uncertainties under CERCLA. Also, Rep. Mark Udall (D-CO) and Rep. Steve Pearce (R-NM) introduced H.R. 4011 that addresses Clean Water liabilities. H.R. 4011 is based on the WGA-WSWC straw proposal.

In 2008 and 2009, WGA and WSWC members visited with Congressional staffers to discuss Good Samaritan legislation. Additionally, representatives from the State of Colorado, the Western Governors' Association, and a number of environmental groups met with Senator Mark Udall's (D-CO) staff on August 14, 2009 to discuss the possibility of introducing Good Samaritan legislation in the 111th Congress. In October 2009, Senator Udall introduced the "Good Samaritan Cleanup of Abandoned Hardrock Mines Act of 2009" (S. 1777), which focuses solely on relieving Good Samaritans from liability under the Clean Water Act. While the legislation has support, significant opposition still remains.

2010: The Committee will continue to participate in, and work with, the WGA Good Samaritan Working Group to facilitate enactment of Good Sam legislation, including S. 1777. In particular, the Committee will work with the WGA Group to identify those states where Good Sam is an issue and to identify specific deliverables, while also working with Senator Udall's staff to help enact S. 1777. As part of this effort, the Committee will actively seek partnerships and collaboration with other organizations that are supportive of Good Sam legislation.

In advance of the WSWC meetings to be held in Washington, D.C. on March 23-26, 2010, the Committee will work in conjunction with the WGA Group to take the following steps.

First, it will prepare a briefing paper that will: (1) summarize the WSWC/WGA's Good Sam positions; (2) explain the need for Good Sam legislation and express support for S. 1777; (3) address concerns; and (4) offer the WSWC/WGA as a resource.

Second, the Committee will schedule meetings with key Congressional members/staff and Administration officials to urge support for Good Sam legislation and to distribute the briefing paper. The Committee will also work with WestFAST and Senator Udall's office, as well as Shaun McGrath, the White House Deputy Director of Intergovernmental Affairs, to schedule visits with appropriate Congressional and Administration officials.

Time frame: Ongoing

Subcommittee: Paul Frohardt (CO) and John Kennington (UT) (Additionally, the Committee works with the WGA Working Group on Good Samaritan issues)

**WATER RESOURCES COMMITTEE
WORK PLAN
2010**

1. IMPLEMENTATION OF THE WGA/WSWC REPORT, “WATER NEEDS AND STRATEGIES FOR A SUSTAINABLE FUTURE: NEXT STEPS”

The Water Resources Committee will have lead responsibility for a number of tasks to be undertaken to implement the 2008 Water Report recommendations as follows:

2. WATER INFORMATION and DATA COLLECTION and MANAGEMENT

2006 WGA Water Report: 2.D. “The WSWC should...compile a state-by-state and westwide summary of existing water uses..., current ground and surface water supplies, and anticipated water demands, then identify and evaluate trends and common themes. The summaries should address both consumptive and non-consumptive uses and demands.”

2008 Next Steps: #7 “State and federal water resource agencies should work together to provide universal access to the water-related data collected by all state, local and federal agencies, as well as tools and models that better enable the synthesis, visualization and evaluation of water-related data....”

There are a number of items under this functional area, divided as outlined below.

Subcommittee: Phil Ward, Chair (OR); Hal Simpson (CO); Hal Anderson (ID); Paul Graves (KS); Estevan Lopez (NM); Duane Smith (OK); Barry Norris (OR); Dr. Robert Mace (TX); and Sue Lowry (WY). Dr. Mace also represents the WSWC on the federal Advisory Committee on Water Information (ACWI).

Time Frame: ongoing

A. NATIONAL WATER ASSESSMENT/WESTERN WATER-USE INFORMATION

Work to date: In 2002 the National Research Council released a report, “Estimating Water Use in the United States: A New Paradigm for the National Water-Use Information Program.” Subsequently, the Congress directed the U.S. Geological Survey (USGS) to prepare a report on what a national water assessment would entail. Continuing efforts to improve water information for decisionmaking are undertaken under the auspices of the Advisory Committee on Water Information, of which the WSWC is a member.

In 2007, the Council undertook a survey of member states regarding their existing water supplies, projected future water uses, and strategies for closing and gaps in water supply and demands. The effort highlighted the general lack of good information available to the states, and much of the future water use data was characterized as “unsubstantiated estimates.” The results were summarized and displayed to the extent possible in a state-by-state matrix. Also

in 2007, the National Science and Technology Council's Committee on Environment and Natural Resources, Subcommittee on Water Availability and Quality (SWAQ) released a report entitled, "A Strategy for Federal Science and Technology to Support Water Availability and Quality in the United States." The report said, "Simply stated, quantitative knowledge of U.S. water supply is currently inadequate."

In 2008, the Council worked with a number of federal agencies, under the Corps' Western Watershed Study, to identify existing water resources related information and tools. The Council also sponsored a Water Management Symposium in the Fall of 2008, in cooperation with relevant federal agencies and other stakeholders to evaluate the status of federal and state water information and the programs used to gather such information.

In 2009, the Council cosponsored a briefing for Congressional staff in Washington, D.C. in cooperation with the U.S. Geological Survey.

2010: Working with the WestFAST team, the Council will continue seeking to develop a strategic plan to improve the acquisition, storage and dissemination of data on existing surface and ground water supplies and uses, both consumptive and non-consumptive, identifying trends and common themes as well as present and future events and factors that may affect future water supplies, including changing farm policies, energy demands, and climate change, etc.

B. USGS COOPERATIVE STREAMGAGING

Work to Date: The Council has consistently supported the fully-federally funded USGS National Streamflow Information Program (NSIP) and Cooperative Water Program (CWP), a federal/state streamgaging program. The Council has urged the Congress to appropriate sufficient money to restore a 50-50% funding match. As federal program costs have increased, western states have urged USGS to focus on basic data collection, as opposed to analysis and modeling studies.

In 2005, the Council sponsored a half-day roundtable discussion between state and federal officials on water resources data collection and management issues. Ten Senators also sent a letter asking the Administration for a large increase in funding. The Administration and the Congress responded favorably, though with only a modest request and increase in funding. In 2006 and twice in 2007, *and again in 2008* and 2009 Council members and staff made trips to Washington, D.C. and met with Administration officials and Congressional staff to encourage support for more funding. The Council has also been represented in discussions to better define federal streamgaging overhead costs and opportunities to provide non-federal inkind services.

2010: The Council, through the Committee, will continue working with the Interstate Council on Water Policy and other interested organizations to represent states' interests in maintaining a viable and useful streamgaging network, focused on gathering basic water data and information. The Council will continue to pursue opportunities to support increasing funding for USGS cooperative streamgaging and other important programs.

C. NRCS SNOW SURVEY AND WATER SUPPLY PROGRAMS

Work to Date: The Council has consistently supported the snow survey program, and urged the Congress to appropriate sufficient money to maintain and modernize the current system. WSWC members and staff have met with NRCS officials, and western Congressional delegations, to express concern over adequate funding and the vital need for snow survey data. Since 2004, the Council has actively worked with the Congress to increase funding for the NRCS snow survey program, as well as the Soil and Climate Analysis Network (SCAN). In 2005, the Council sponsored a half-day roundtable discussion between state and federal officials on water resources data collection and management issues. The Council continues to place a high priority on snow survey program information. In 2006, 2007, 2008 and 2009, the Council and WGA wrote and WSWC staff visited Administration and Congressional contacts urging greater funding.

2010: The Committee and Council will continue to pursue opportunities to support increasing funding for NRCS snow survey and soil and climate analysis programs, as well as other important programs. The Committee will work with the NRCS to develop and suggest a timeline for upgrading and modernizing the current snow survey and water supply forecasting program, converting manually measured snow courses to automated SNOTEL sites, expanding coverage (especially high altitude sites) and establishing a failover system. The Council will also work with states interested in funding specific SNOTEL sites, and NRCS to ensure adequate funding is available for operation and maintenance.

D. LANDSAT DATA CONTINUITY PROGRAM

Work to Date: More and more states are using remote sensing, particularly Landsat thermal infrared (TIR) band data, for water rights administration and to better monitor and manage water use, especially agricultural water use. As the cost of obtaining thermal imaging has dropped, the use to which this information has been put has increased dramatically. Currently, demonstrated water resources planning and management applications include quantifying and monitoring consumptive water use by irrigated agriculture, urban and suburban landscapes, and natural vegetation, as well as calibrating ground water models, monitoring aquifer depletion, and computing water budgets for surface water models. It is also an increasingly essential tool in monitoring the exercise of water rights, in order to ensure their use according to myriad state and federal laws, decrees, compacts and negotiated agreements, as well as rules and regulations.

The White House Office of Science and Technology Policy (OSTP) has directed USGS and the National Atmospheric and Space Administration (NASA) to launch a separate Landsat satellite as part of the Landsat Data Continuity Mission (LDCM). A subsequent request for proposals included a thermal band, but only as an option. In 2006, the Council met and corresponded with OSTP, USGS, NOAA and NASA officials, expressing our strong support for maintaining domestic access to this vital information. Council members have also directly provided evidence of the use and importance of this information. From 2007-2009, Council staff traveled a number of times to Washington, D.C. to meet with key

Administration officials and Congressional staff to strongly urge them to include a TIR sensor on Landsat 8, due to be launched in 2011.

In response to the Council's efforts, several western senators wrote appropriators and NASA to express concern over the potential loss of this vital tool for present and future water management. Moreover, the FY2009 consolidated Appropriations package added \$1 million for NASA to prepare a plan on all continuity of data for the LDCM. In 2008, at the Council's urging, both House and Senate Appropriations Committees addressed this issue. The latter expressed support for a TIR sensor to be built by NASA within existing resources, while the House report added \$20 million. Further, the House passed NASA authorization legislation calling for TIR sensor continuation.

In 2009, the Council continued efforts to secure support and funding for including TIRS on LDCM. President Obama's FY2010 budget request included full funding for TIRS, but with the failure to reach orbit of the Orbiting Carbon Observatory in February 2010, NASA's Science Directorate leadership began looking at a possible TIRS/OCO mission that would have seriously compromised TIRS current abilities. NASA eventually determined such action was not practical. In response to questions suggested by WSWC to Congressional staff, the incoming NASA Administrator in his Senate confirmation hearing promised to do everything possible to ensure TIRS remained on LDCM. WGA also called for TIRS deployment on LDCM in correspondence with the Appropriations Committee's Commerce, Justice and Science Subcommittee.

2010: This will continue to be a significant Council priority, given the real potential loss of this instrument and its capabilities. The Council, working with the WGA, will continue to urge the Administration to request and the Congress to appropriate money to ensure TIRS is deployed as part of LDCM.

E. WATER INFORMATION MANAGEMENT SYSTEMS

Work to date: A series of successful annual workshops has brought western water agency staff together to discuss data processing and water management needs and resources in Albuquerque, Boise, Cheyenne, Denver, Missoula, Phoenix, Reno, Salem, Salt Lake City, Seattle, and Sun Valley. In 2007, the Seattle meeting was focused on water resources planning and data needs related to present and future water uses, as well as assessing existing supplies. In 2008, the Council sponsored a water management symposium entitled, "The West's Water Future: Water Information Needs and Strategies." The meeting produced a number of recommendations for moving forward, which the Council and WestFAST team will seek to implement. In 2009, the meeting was held in San Diego, and focused on data and information systems and needs for climate adaptation.

2010: The Committee determined not to hold a separate workshop in 2010. The WSWC will continue to work with the federal Advisory Committee on Water Information, USGS, NRCS, NOAA and others on data collection, management and dissemination programs and issues.

3. WESTERN WATER PROJECTS AND PROGRAM FUNDING

2006 WGA Water Report: 3.B. “The WGA [WSWC] should urge Congress to increase appropriations from annual receipts...accruing to the Reclamation Fund, for authorized Bureau of Reclamation projects and purposes, to help meet western water supply needs, especially for rural communities, to maintain and replace past projects, and to build new capacity necessary to meet demands related to growth and environmental protection.”

3.F. “The WSWC should identify the beneficiaries of our existing water infrastructure and opportunities to expand the range of interests to build a coalition to support necessary funding, as well as evaluate any opportunities to consolidate delivery of water-related services.”

3.H. “The states should develop coordinated public education and other outreach programs to help survey and communicate the need for adequate public infrastructure investments at all levels of government....”

3.I. “The WSWC should organize a series of ongoing biennial symposia designed to: (a) bring stakeholders together to try and find ways to meet our growing western water...needs; (b) find ways to quantify, evaluate and prioritize funding those needs; and (c) highlight the benefits of integrated watershed...management.”

2008 Next Steps: #20 “All levels of government, along with appropriate private sector involvement, should cooperate in the development and implementation of appropriate criteria for prioritizing infra-structure needs, asset management strategies, policies, standards, techniques and technologies.” **#24** “In cooperation with federal, state, local and private landowners, states should identify and prioritize anticipated future water resources infrastructure needs as component of water state water plans and planning processes.” **#25** “Federal agencies should work cooperatively with state and local water agencies to identify necessary studies, data and projects....” **#27** “The WSWC should update information and compile a report on western states water resources infrastructure financing authorities, funding sources, policies and programs.”

Work to date: The Council’s origins are associated with challenges to augment and better manage the West’s water supply. Since 1965, this has been a preeminent challenge. Augmenting the West’s water supply continues to be a priority. We are no longer a predominantly rural area, but the most urbanized in the country. As a result, cities exercise more influence over water politics than when the West was first settled. Public values have also changed with increasing support for environmental values. While all demands for western waters are increasing, providing new water supplies through the construction of large traditional surface water storage projects is often not feasible for various reasons. New technologies are advancing the recovery and reuse of wastewater and desalinization of brackish or saline waters, as well as innovative storage alternatives, such as enhanced groundwater recharge and recovery. Other alternatives may provide a means to enhance supplies.

The Council has in the past prepared reports on state water resources programs and project cost sharing and financing and analyzed state water use fees. In 2002, a matrix of state water

resource funding sources and mechanisms was prepared. Many western states face overwhelming estimates of infrastructure financing needs, as well as declining budgets for ongoing services. In 2005 and again in 2008, the Council testified before the Congress on water supply and infrastructure needs (both State and tribal water right settlement needs) and the future role of the Bureau of Reclamation and the Reclamation Fund. The WGA 2008 Next Steps report, prepared by the Council, has numerous recommendations for water management, including funding and financing recommendations.

Given the challenges facing our current water supply infrastructure, including deterioration due to aging and stress from increasing demands as well as potential increasing climate variability (and more intense drought and floods), the U.S. Army Corps of Engineers (and other agencies) in cooperation with the Council continue to work to develop a strategic plan to identify and prioritize future infrastructure rehabilitation, reoperation and new development needs. As part of this effort and working to implement the WGA Water Reports, in March 2008, the Council in collaboration with various federal agencies and other interested parties held a conference focused on water resources infrastructure issues. The findings were used in developing the 2008 Next Steps report adopted by western governors.

2010: The Council will hold its annual Water Management Symposium on this topic under the direction of the Water Resources and Executive Committees. It will also continue to call on the Congress to ensure that revenues raised from the development of western resources are appropriated and expended as intended for the development and management of western water resources. Specifically, the Council will continue to encourage the Congress and the Administration to use the Reclamation Fund, as intended, to finance western water supply projects and programs. The Council will otherwise support efforts to secure adequate federal funding to meet growing western water needs. In addition, the Committee will develop a strategy to communicate the need to use these funds for their intended purposes.

The Committee will formulate plans for the Council to sponsor a series of symposia on infrastructure financing needs beginning in 2010. This will include an effort to identify the range of relevant interest groups that might successfully form a coalition or partnership to promote appropriate solutions to identified needs. Further, the Committee will seek to identify any existing public education or outreach programs specifically designed to promote the need for future public water resources related infrastructure investments. Lastly, the Council will begin to compile an updated summary of western state infrastructure financing authorities, funding sources, policies and programs.

Subcommittee: Jeanine Jones (CA), Chair; Hal Simpson (CO); Mike Volesky (MT); John Utton (NM); Duane Smith (OK); and Kevin Ward (TX).

4. ENERGY & WATER RESOURCES – INTEGRATED MANAGEMENT

2006 WGA Water Report: 2. Analysis “The need for additional supplies to meet growing and changing water supply demands...has been identified by virtually every western state as a priority. Fresh water supplies are limited and many if not most...are fully appropriated or

otherwise reserved for myriad uses.... Energy demands and related water resource needs are significant concerns. As the United States expands its domestic energy production, the interaction between energy development and water use in the western states cannot be overlooked. The issues range from how to deal with water produced from extraction processes to meeting the cooling water demands of coal and natural gas fired power plants.... Hydropower is also very important in western water resources development and financing.”

Work to date: The continuing increase in energy prices is also raising interest in the interrelationship between water and power resources, and opportunities to better understand the energy-water nexus and maximize efficiencies. The Council has addressed various aspects of energy issues as they relate to water resources as part of its regular meetings, including the demand for water resources created by new energy development, particularly coalbed methane (CBM) and biofuels, as well as potential water quality problems. The use of water produced by energy development has also been discussed. In 2009, a subcommittee was formed and further activities outlined to better define our future water and energy related needs. The Council also joined WGA in a proposal to the Department of Energy (DOE), which includes funding to look at the water needs related to renewable energy production, and related impacts on water supplies.

2010: The Committee will continue to explore the energy-water nexus as part of its regular meetings, and the Council will compile existing information addressing anticipated energy resources development, potential sources of various future energy development, and report on what the implications are for water use in the West. Further, the Council will consider and evaluate federal legislation and potential collaborative efforts in addressing energy and water needs. The Council will work with WGA to fulfill the tasks envisioned in its DOE grant application related to water and energy as appropriate.

Subcommittee: Alex Davis (CO), Chair; Jeanine Jones (CA); Duane Smith (OK); Eileen Grevey Hillson (NM), and Dennis Strong (UT).

5. DROUGHT

2008 Next Steps: #8 “Federal agencies with long range water supply planning responsibilities should: (a) Work in cooperation with states to help communities develop drought preparedness plans...and be visible and engaged in all drought-related forums: nationally, regionally and locally; (b) Support the implementation of the National Integrated Drought Information System (NIDIS)... [and] (c) Ensure there is an accurate assessment of the Nation’s water availability and water demands....”

Work to date: Drought is a recurring natural phenomenon, the effects of which can be minimized through appropriate planning and preparedness activities. This is a continuing work plan item. The Council has in the past worked with the WGA, National Drought Policy Commission, federal agencies, the National Drought Mitigation Center and other entities to improve planning and response to future drought and flooding. In 2001, WGA prepared draft legislation, introduced in 2002 by Senators Pete Domenici and Max Baucus as the National

Drought Preparedness Act. It was introduced in the House by Representatives Alcee Hastings and Denny Rehberg. The legislation was reintroduced, but did not pass.

In 2005, the Council testified in support of H.R. 2925 reauthorizing and extending Title I authorities under the Reclamation States Emergency Drought Relief Act of 1991, as well as legislation to create a National Drought Council and National Drought Policy. In 2006, the Council expressed its support, in the form of a letter to the Congress, urging enactment of legislation authorizing a National Integrated Drought Information System (NIDIS), which the Congress later approved, but enactment of a National Drought Preparedness Policy continues to languish. In conjunction with its Fall 2009 meetings in Lincoln, Nebraska, the Council and WGA cosponsored a workshop on NIDIS implementation and related climate services, including a discussion of present and future “user” needs.

2010: The Committee and Council will continue working to improve drought preparedness and response efforts westwide in cooperation with the WGA and WestFAST. The Council will also continue to support and advise WGA and NOAA with respect to the National Integrated Drought Information System (NIDIS), as WGA seeks to coordinate related federal and state efforts to address information needs and compile data on drought related impacts.

Subcommittee: Tom Carr (AZ); Jeanine Jones (CA); John D’Antonio (NM); Duane Smith (OK); and Ken Slattery (WA).

6. 2008 FARM BILL IMPLEMENTATION

2006 WGA Water Report: 1.B. “States should facilitate collaborative watershed-based planning that balances desirable growth and protection of the natural environment that depends on surface and ground water quantity and quality.” **1.D.** “States and local governments should consider the impacts of continued growth that relies on transfers from agriculture and rural areas....”

2008 Next Steps Report: #10 “States should encourage the use of water banks, rotating fallowing and dry year leasing, as well as other voluntary means to improve agricultural water use efficiency....”

Work to date: The Council has an interest in various water-related aspects of the 2007 Farm Bill, particularly Title II – Conservation. In preparing draft legislation, USDA asked for comments on the scope of amendments and programs. In response, in 2005, the Council prepared and adopted a position on various aspects of the Farm Bill that was submitted to USDA. In 2005 and 2006, the Council met to discuss our interests with senior USDA officials, including a special session on the Farm Bill as part of its Washington, D.C. meetings in March 2006 with USDA’s Under Secretary for Natural Resources and Environment.

In 2008, the Congress passed the Farm Bill. One significant proposal to come out of the Administration was creation of a new Agricultural Water Enhancement Program (AWEP), to provide for an integrated, watershed approach to water and land management under the

Environmental Quality Improvement Program (EQIP). The Council endorsed the concept and wrote the Senate Agriculture Committee expressing our support. The Congress revised the proposal and enacted an Agricultural Water Enhancement Program (AWEP) to help producers and others achieve water quality goals and address water quantity concerns. In 2009, WSWC representatives met with Natural Resources Conservation Service leadership, and were briefed on AWEP implementation.

2010: The Committee and Council will continue to be active in the discussion of federal agricultural and farm programs and funding, particularly AWEP implementation, while encouraging conservation programs, policies and spending that support western state water management objectives.

Subcommittee: Jeanine Jones (CA), Chair; Paul Frohardt (CO); David Glatt (ND); Phil Ward (OR); Walt Baker (UT); Stephan Bernath (WA) and Sue Lowry (WY).

7. CLIMATE VARIABILITY AND CHANGE

2008 Next Steps: #35 “Water managers should take the initiative to clearly communicate their needs for applied science to the climate research community, and must seek opportunities to guide hydroclimate research in directions that will support real-world problemsolving.” **#36** “Planning for climate changes should be undertaken at all levels....” **#39** “States should examine their existing water laws and institutions to determine if they are adequate to provide sufficient flexibility to address potential climate impacts....” **#40** “States should anticipate an increased need to address the forecasted effects of climate change in administrative, regulatory, and legal agreements involving water resources.”

Work to date: As part of its efforts to prepare to meet future water supply challenges, the Council has tried to keep its members apprised of studies regarding climate change and its impacts on weather variability and extreme events that affect water managers, particularly drought. Future climate changes, increasing variability and more intense weather events are likely to add new challenges for water resource planners, managers and water right administrators. Further, climate changes and increasing temperatures will likely result in more evapotranspiration. Precipitation changes are also expected, but total precipitation impacts remain uncertain. It is general expected that more will be in the form of more rain and less snow. As a result, snowpacks may decline, form later and melt out sooner, advancing peak runoff, while higher mean temperatures prolong growing seasons and increase water demands. Other unanticipated changes are possible. Climate change was an important topic of the Council’s Evolving Technologies and Emerging Issues Workshop held in November 2006, in Irvine, California. A separate May 2007 workshop in Irvine, focusing on Climate Change Research Needs, was cosponsored by WGA, WSWC and the California Department of Water Resources, which published the proceedings. Another workshop, with the same cosponsors, was held in Irvine in September 2008 to highlight adaptive strategies for water resources planning and management. A workshop in San Diego in November 2009 also focused on adaptation and data and information needs.

2010: The Committee will work with WGA to implement recommendations from the workshops and the 2008 Next Steps report. Further, the WSWC is part of WGA's climate adaptation work group. We will also work with NOAA and its RISAs on climate impacts. The Committee will continue to identify the extent to which climate variability and change is currently considered as part of state water plans and planning efforts. Further, it will explore opportunities for greater integration and coordination of federal efforts, working through WestFAST.

Subcommittee: Jeanine Jones (CA), Chair; Paul Graves (KS)

8. WATER RESOURCES RESEARCH

2006 WGA Water Report: 2.B. "Use the research programs at western state universities to focus research on practical applications of promising new technologies, and identify areas where the increased use of technology...should be promoted to enable more efficient and cost effective operations."

2008 Next Steps: #11 "The Congress and the Administration should support more spending for research and development related to innovative water conservation and supply augmentation strategies, including ground water recharge and recovery, desalination, recycling and reuse, and weather modification. Financial assistance should be provided as well where there is a significant national or regional benefit." **#35** "Water managers should take the initiative to clearly communicate their needs for applied science...."

Work to date: In 2005, the Council expressed its support for the Water Resources Research Institutes (WRRI) program. These centers assist states and others address increasingly complex water management challenges, by providing research through state universities. The research agenda is often determined in consultation with a state advisory committee, and their outreach and information-transfer activities are a valuable service to the water community. This is a very worthwhile state/federal partnership.

The Council sponsored a workshop in conjunction with its Summer 2007 meetings in Bozeman, Montana to bring together state, federal and academic interests to evaluate the role of science and research "past, present and future" in addressing water supply problems. In 2008, the Council staff met with western members of the National Institutes for Water Resource (NIWR) and discussed western state priorities identified in the 2006 WGA Water Report and 2008 Next Steps Report. Council staff has also participated in meetings of the Universities Council on Water Resources (UCOWR).

2010: The Council will continue to support Water Resources Research Institute (WRRI) funding. Further, the Water Resources Committee will regularly invite representatives from western state universities to meet with state water managers to discuss "research on practical applications of new technologies." Moreover, the Committee will work with academic water resources organizations to develop a protocol for outlining and communicating research priorities.